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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,898	12/29/2005	Philip Steven Newton	NL 030770	6923

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EXAMINER	
INGVOLDSTAD, BENNETT	
ART UNIT	PAPER NUMBER
2427	
MAIL DATE	DELIVERY MODE
04/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/562,898	NEWTON ET AL.	
	Examiner	Art Unit	
	Bennett Ingvoldstad	2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-7,9-14 and 17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-7,9-14 and 17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 26 January 2009 has been entered.

Response to Arguments

2. Applicant's arguments filed 26 January 2009 have been fully considered but are moot in view of the new rejections.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 14 recites a computer readable medium having thereon a computer program, the computer program, when used, comprising "code segments for causing...." Such code segments are nonfunctional descriptive material stored on a computer readable medium because no positive recitation is made

tying the code segments to the claimed functions such that the code segments are executable by the computer.

5. When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored in a computer-readable medium, in a computer, on an electromagnetic carrier signal does not make it statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in Benson were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer."). Such a result would exalt form over substance. In re Sarkar, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978) ("[E]ach invention must be evaluated as claimed; yet semantogenic considerations preclude a determination based solely on words appearing in the claims. In the final analysis under § 101, the claimed invention, as a whole, must be evaluated for what it is.") (quoted with approval in Abele, 684 F.2d at 907, 214 USPQ at 687). See also In re Johnson, 589 F.2d 1070, 1077, 200 USPQ 199, 206 (CCPA 1978) ("form of the claim is often an exercise in drafting"). Thus, nonstatutory music is not a computer component and it does not become statutory by merely recording it on a compact disk. Protection for this type of work is provided under the copyright law.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 2, 9-11, 13, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1182874 A1 (hereinafter "Leporini") in view of US 7350204 (hereinafter "Lambert").

Claim 1: Leporini discloses a method of recording [para 0103] and/or playback [para 0001, 0002] of recorded interactive television [para 0021], comprising:

tagging of recorded interactive television content with identification information for access control to the recorded interactive television content (associating content management information [para 0014] and conditional access information [para 0016] with stored contents [para 0034]).

Leporini further teaches an application that causes recording of interactive contents (para [0345]). However, Leporini does not further disclose controlling access to said recorded interactive television content such that the content may only be deleted or modified by the application that caused the recording, or said identification information being information identifying said application that caused the recording.

Lambert teaches a policy for secure software execution comprising an object (objects comprising files – col. 8, l. 14-18) tagged with a security descriptor determined by the content creator (col. 9, l. 17-35), where the security descriptor may specify a security identification (SID) corresponding to the creating process such that only processes labeled with the particular SID may access the file (col. 10, l. 14-38). Therefore, Lambert teaches controlling access to content such that the content may only be deleted or modified (ie, accessed) by the application that caused the recording of the contents (the creator or owner of the file, specified by the SID), said object tagged with identification information identifying the application (the access control list containing a single SID).

It is obvious to use a known technique to improve similar devices in the same way. Leporini's computer system and Lambert's computer system are similar in that they are both computer systems running multiple applications. Therefore, it would have been obvious to apply the security technique taught by Lambert to improve the system of Leporini in the same way as taught by Lambert for the purpose of preventing unauthorized applications from accessing data.

Claim 2: Leporini in view of Lambert further discloses the method according to claim 1, wherein said interactive television content is audio/visual content associated to said interactive television application (Leporini para [0133, 0134]).

Claim 9: Leporini in view of Lambert further discloses the method according to claim 1, wherein said interactive television content is recorded as files (Leporini para [0032].

Claim 10: Leporini in view of Lambert further discloses the method according to claim 9, comprising storing said interactive television content, said interactive television application and said identification information in separate files (Leporini para [0032].

Claim 11: Leporini in view of Lambert further teaches that said identification information is stored in an info file being linked to at least one interactive television application (Lambert col. 8, l. 14-38), said info file comprising a table with related interactive television content to said interactive television application on said storage medium (see Lambert's Figs 2 and 3, illustrating the security descriptor and tokens as tables).

Claim 13: Leporini in view of Lambert further discloses the method according to claim 1, said interactive television content being at least one audio/visual stream (e.g., a game – Leporini para [0345], [0149]).

Claim 14: Leporini in view of Lambert further discloses a computer-readable medium having embodied thereon a computer program for processing by a

computer, the computer program, when used, being for performing the method according to claim 1 (Leporini para [0132], comprising

a code segment for tagging of recorded interactive television content with identification information for access control to the recorded interactive television content (associating content management information - Leporini para [0014] and conditional access information - Leporini para [0016] - with stored contents - Leporini para [0034]).

Claim 17: Leporini in view of Lambert further discloses an apparatus for recording and/or playback of recorded interactive television, comprising:

- a memory for storing interactive television content [para 0103].

- a central processing unit, conceived to tag recorded interactive television content with identification information for access control to the recorded interactive television content [para 0065].

Leporini in view of Lambert further teaches the remaining limitations, as discussed for claim 1.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leporini in view of Lambert and US 6505160 B1 (hereinafter "Levy").

Claim 5: Leporini in view of Lambert does not further disclose the method according to claim 3, said identification information being information identifying a

broadcaster who broadcast said application and said recorded interactive television content for recording.

Levy discloses a method of linking identification information to broadcast content by including a broadcast identifier in the identification information [col. 3, l. 23-48].

It would have been obvious to have used a broadcast identifier in the identification information as disclosed by Levy for the purpose of linking the identification information to the broadcasted application and television content [Leporini para 0065].

9. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leporini in view of Lambert and WO 01/82588 A2 (hereinafter "Yap").

Claim 6: Leporini in view of Lambert does not further disclose the method according to claim 2, comprising indicating to a play-back application for playing back interactive television content which other interactive television content stored on a storage medium is related to said play-back application by means of said identification information.

Yap discloses that content may be associated with tags specifying related programs [para 0058].

It would have been obvious to have modified the identification information disclosed by Leporini in view of Lambert to include related program information

as disclosed by Yap, for the purpose of indicating related program data such as different sections of a content [Leporini para 0015].

Claim 7: Leporini in view of Lambert and Yap further discloses the method according to claim 6, comprising said play-back application allowing a user to navigate between a plurality of said stored related interactive television content (either in conjunction with the program guide [Yap para 0059] [Leporini para 0134] or through sequential playback of related sections of a single content [Leporini para 0175]).

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leporini (EP 1182874 A1) in view of Applicant's admitted prior art (hereinafter "AAPA").

Claim 12: Leporini in view of Lambert does not further disclose the method according to claim 1, wherein said interactive television is MHP.

AAPA discloses that MHP was a well-known standard for interactive television [Applicant spec. pg. 1, l. 1-11].

It would have been obvious to have modified the interactive television method of Leporini to conform to the MHP standard for the purpose of using a popular interactive television standard [Applicant spec. pg. 1, l. 1-11], thus ensuring compatibility with other devices.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvoldstad whose telephone number is (571)270-3431. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvoldstad/
Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427